

October 2004 Unified Program Newsletter

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Cal/EPA

Cal/EPA Scholarships for the 2005 CUPA Conference

The 7th Annual Unified Program Conference will be held February 7-10, 2005. Cal/EPA is offering a limited number of scholarships to this training conference. Funding for the scholarships is made possible by funds from the settlement of an enforcement case that was designated for training. The scholarships are available to state, local, and tribal environmental enforcement staff ONLY by applying no later than October 31, 2004. [More information...](#)

New Automated CalEPA ListServ Subscription Management

CalEPA maintains several e-mail lists (listservs) for stakeholders interested in the various programs. A new listserv page allows you to subscribe and unsubscribe to these lists; you may also receive an e-mail showing the lists you are currently subscribed to. For additional information please visit: <http://www.calepa.ca.gov/ListSrvs/>

State Water Resources Control Board

UST Regulatory Compliance/Inspection Training On-Line

UST training material, based on Laura Chaddock's class, has been posted on the website. The material does not cover all UST requirements and is not intended as preparatory for International Code Council (ICC) certification exams. http://www.swrcb.ca.gov/ust/pubs/pubs_disclaimer.html
UST Program Contact: Laura Chaddock, chaddocl@swrcb.ca.gov, 916-341-5870

Sample Forms for UST Owner & Designated UST Operator Training Requirements

Sample forms have been posted on the UST program website that may be used to meet the upcoming designated UST operator and UST owner requirements. The forms include the minimum regulatory requirements for Designated UST Operator information submittal, signed owner statement, and monthly visual inspection of the UST facility.

http://www.swrcb.ca.gov/ust/training/new_trng_reqmts.html

UST Program Contact: Scott Bacon, bacons@swrcb.ca.gov, 916-341-5873

Local Guidance Letter 164: Reporting of Significant Operational Compliance

On September 24, 2004, the SWRCB e-mailed Local Guidance Letter 164: Reporting of Significant Operational Compliance to local agencies. The purpose of LG 164 is to discuss USEPA's changes to the reporting of SOC of UST facilities, which is mandatory as of October 1, 2004. Copies are attached.
UST Program Contact: Julie Berrey, berreyj@swrcb.ca.gov, 916-341-5872

Electronic Submittal of Information Regulations

The Board approved the regulations containing minor modifications at its September 30, 2004, meeting. The Office of Administrative Law (OAL) had returned the regulations to the SWRCB for minor modifications, additional public comment on the minor modifications, and return to OAL within 120 days. Information on these proposed regulations is available on the SWRCB UST Program website.

www.swrcb.ca.gov/ust

UST Program Contact: Kevin Graves, gravesk@swrcb.ca.gov, 916-341-5782

Department of Toxic Substance Control

Use of the Deionized Water Waste Extraction Test (DI-WET) for Hazardous Waste Determinations

Recent events at several California landfills have put into question the test data and/or waste classification process relied upon by owners and operators of waste management units to accept wastes or alternate daily cover materials for discharge at their facilities. For additional information please view the following document: http://www.swrcb.ca.gov/rwqcb5/available_documents/wasteclass/use-of-di-wet.pdf

Other News

Battery Preparation and Packaging Guidance

Kinsbury Bros. Inc. has some helpful guidance posted on their website regarding battery preparation and packaging. For more information visit: http://www.kinsbursky.com/Battery_prep.html

There have been some issues regarding the safe handling of lithium batteries. When numerous lithium batteries have been placed into a drum, ends connect resulting in enough charge to start a fire. There have been reports of several fires that resulted from this.

Ex-EPA Official Is Convicted of Fraud

LA Times September 28, 2004

A federal jury Monday convicted a former top official of the Environmental Protection Agency of scheming to defraud a client who hired her consulting firm to clean up a toxic work site in Los Angeles.

Rita Lavelle, 57, of Temecula, who served as head of the EPA's Superfund program during the Reagan administration, faces 15 to 24 months in prison when she is sentenced in January on one count of fraud and two counts of making false statements to the FBI.

Lavelle, who remains free on bond, said after the verdict that she was the victim of a government frame-up. "I didn't do anything illegal or immoral," she said.

The conviction involved her activities as a partner in an environmental consulting firm, NuTech Enterprises Inc. of Oceanside. Also accused in the case was Robert V. Cole, 67, a partner in DeNova Environmental Inc., a hazardous waste facility in Rialto.

According to prosecutors, Cole and Lavelle tried to swindle Joseph Bertelli, the 86-year-old owner of the Lemco Corp. in South Los Angeles, which had been in the business of buying and reselling salvaged goods.

In 2000, the EPA ordered Bertelli to remove all hazardous waste from his facility. He hired Lavelle to oversee the job. Prosecutors said Lavelle and Cole hatched a scheme to defraud Bertelli of \$52,000 by forging his name on various documents without performing any of the work. Cole pleaded guilty earlier this month to wire fraud and is awaiting sentencing.

In 1983, Lavelle was convicted of lying to a House subcommittee investigating conflicts of interest by officials in the EPA's toxic cleanup program. She was forced to resign and spent five months behind bars.

E-Waste Updates

The following information was taken from the electronic newsletter is distributed through CIWMB's Electronic Product Management Listserv and provides updates on the implementation of California's Electronic Waste Recycling Act of 2003 (SB 20, Sher, Chapter 526, Statutes of 2003).

SB 50 Signed by Governor

SB 50 (Sher) was signed by the Governor on September 29, 2004. SB 50 enacts several technical adjustments to the provisions of SB 20 (Sher), including but not limited to:

- Revising manufacturer notification requirements
- Revising definitions
- Requiring the Board of Equalization (BOE) to collect fees
- Establishing January 1, 2005 as the start date for both fee collection and recycling payment activities
- Setting an interim recycling payment rate
- Limiting payment activities to in-state recycling
- Providing for a manufacturer payment for product take-back

The bill included an urgency measure and went into effect immediately.

More information on SB 50 can be found at: www.leginfo.ca.gov/bilinfo.html

No Payment System Approvals Yet Issued

As previously reported, the "Application to Participate in the Covered Electronic Waste (CEW) Recovery and Recycling System" is now available through the CIWMB's website. Those applications for approval that have been received by the CIWMB are being assessed for completeness, and then evaluated and verified in collaboration with the Department of Toxic Substances Control (DTSC) to ensure that applicants are in conformance with all applicable rules and regulations regarding the management of cathode ray tubes (CRTs) and universal waste electronic devices (UWEDs).

At this time, however, no applicants have been approved or denied. In light of potential adjustments to regulations required by anticipated changes in statute, the CIWMB will wait until the fate of SB 50 is known prior to issuing any approvals or denials. The patience exhibited by prospective participants in the payment system is greatly appreciated as we make every effort to get this program up and running successfully.

Clarification on CIWMB and DTSC Programs and Responsibilities

In a matter related to the above item regarding applications for approval in the payment system, some confusion appears to exist regarding the difference between the CIWMB-administered SB 20 recovery and recycling payment system and the DTSC-administered CRT and UWED management standards and requirements. It is important to note that, while the CIWMB and the DTSC are collaborating closely on these important programs, interested parties must fulfill the separate and distinct requirements administered by each organization individually as appropriate.

For instance, whether or not one chooses to participate in the payment system, CRT and UWED handling and processing standards apply, and all appropriate notifications and/or authorizations must be secured from DTSC. Conversely, compliance with DTSC rules on material handling does not alone constitute approval to participate in the payment system.

The application to apply for the CIWMB-administered payment system is available, along with links to relevant DTSC information, at: www.ciwmb.ca.gov/Electronics/Act2003/Recovery/

Information on DTSC-administered CRT and UWED handling and processing regulations, including Form 1382 and a fact sheet describing what other requirements apply, can be found at: www.dtsc.ca.gov/HazardousWaste/CRTs/

Please direct e-mail correspondence related to e-waste management and SB 20 implementation to ewaste@calepa.ca.gov. To subscribe to or unsubscribe from the E-Waste listserv or other listservs, please go to <http://www.calepa.ca.gov/listservs/>. For information on California's Electronic Waste Recycling Act of 2003 (SB 20) implementation efforts go to <http://www.ciwmb.ca.gov/electronics>.

The Unified Program Section is interested in your comments and suggestions regarding the newsletter. Please provide comments and suggestions to Anie Wilson at (916) 327-9559 or awilson@calepa.ca.gov.

[Cal/EPA Unified Program Home Page](#)



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*Secretary for
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Arnold Schwarzenegger
Governor

Sent via e-mail

September 24, 2004

LG LETTER 164

REPORTING OF SIGNIFICANT OPERATIONAL COMPLIANCE

(Available electronically through links at <http://www.swrcb.ca.gov/ust>)

To: Local Agencies

Purpose

This LG letter is to discuss USEPA's changes to the reporting of significant operational compliance (SOC) of underground storage tank (UST) facilities, which become mandatory on October 1, 2004. USEPA uses SOC numbers to assess compliance rates nationwide. SOC is not intended to be an enforcement tool for inspectors, nor is it a "report card" to assess local agency or State performance.

Background

Until recently, USEPA required States to report the number of facilities inspected during the quarter that are in SOC with: (1) Leak Detection Requirements and (2) 1998 Upgrade Requirements. As you know, the State Water Resources Control Board (SWRCB) collects this information from local agencies through the Unified Program Report 6 and compiles a statewide report to be submitted to USEPA.

USEPA's Changes to SOC Reporting

USEPA has changed the names of the SOC measures to, respectively: (1) Release Detection Requirements and (2) Release Prevention Requirements. In addition, USEPA has added a measure to report the number of facilities inspected during the quarter that are in SOC with (3) both Release Detection and Release Prevention Requirements. Finally, USEPA provided two matrices that contained specific requirements to be used in assessing SOC.

California's Responses to USEPA's Changes

Beginning in the Spring of 2003, we have communicated to you USEPA's plans to change the SOC measures, through discussions with the CUPA Forum Board and through presentations to inspector groups. Knowing that the USEPA matrices were based on the Federal requirements, we prepared a California version of the matrices (see Enclosure 1) and circulated them for review through the CUPA Forum Board Issue Coordinator. Our communication to you on October 2, 2003 (see Enclosure 2) announced the changes and transmitted the relevant documents.



Scope of SOC Reporting

In view of the fact that the purpose of SOC is to assess nationwide compliance with the Federal program, the determination of what violation would be “significant” was based on Federal requirements. As stated previously, we prepared a California version of the “significant” Federal requirements. Even though certain California-only requirements may be “significant” to our program, they may not appear on the SOC matrices if there is no equivalent requirement in the Federal program.

USEPA has clarified that SOC should be determined based on the condition of the site when the inspector begins the compliance inspection. Even if a violation is corrected while the inspector is conducting the inspection, the facility would not be in SOC because it was not in SOC at the beginning of the inspection. For example, if at the time of the initial inspection, certain leak detection equipment is discovered to be non-operational yet is fixed or replaced during the inspection, the facility is not in SOC for reporting purposes. USEPA has made it clear that the facility must be in compliance with all relevant SOC items to be counted as “in SOC.”

When determining compliance rates, a facility that does not comply with an SOC element on one matrix, but is in full compliance on the other matrix, will only be counted as being in SOC with the matrix in which that facility has met every element. If the facility does not meet every element on both the release detection and release prevention matrices, the facility will not be counted as being “in SOC” for the combined measure.

Please do not confuse “significant operational compliance” with the term “significant violation” as used with regard to red tags. Although the word “significant” is used in both phrases, they are two separate concepts. One is a measure of compliance for tracking purposes and the other is a determination of the severity of a violation for enforcement purposes. It is the violations specified in the red tag regulations, not SOC measures, that are the basis for affixing red tags.

Timing of SOC Reporting

As announced on October 2, 2003, the revised matrices become mandatory for inspections during the quarter beginning October 1, 2004. Due to the time lag in reporting, local agencies will report these results to the SWRCB during January, 2005.

Next Steps

USEPA’s revised SOC reporting requirements require a change to Unified Program Report 6 and possibly to the Title 27 data dictionary. At the request of the CUPA Forum Board, we are planning to combine the SOC rulemaking with Cal/EPA’s other planned changes to Title 27 reporting. We are working with Cal/EPA to include our changes in their regulatory package, but this process will not be completed until well after October 1, 2004.

In the meantime, we recommend that you continue to use the modified Unified Program Report 6 as well as the enclosed California-specific matrices detailing the SOC changes.

If you have questions regarding this letter, please contact Julie Berrey at (916) 341-5872 or berreyj@swrcb.ca.gov. If you have any questions regarding the rulemaking, please contact Ahmad Kashkoli at (916) 341-5855 or kashkola@swrcb.ca.gov.

Sincerely,

[Original Signed By]

Elizabeth L. Haven, Manager
Underground Storage Tank Program

Enclosures

cc: Steven Linder, US EPA Region 9
April Katsura, US EPA Region 9
Jerry Parker, OUST
Larry Matz, Cal/EPA

SOC Matrices for California Part I - Release Detection Matrix

A release detection method is present and operational. The release detection system meets minimum Federal performance standards. (See Requirements Below)

If underground storage tanks (USTs) are in temporary closure, yet still contain product, release detection requirements are being met. (See Requirements Below)

The Local Agency has been notified of suspected releases as required. (Cal. Code Regs., tit. 23, § 2650.) [40 C.F.R. § 280.40(b).]

Release detection records are available. (To be in significant operational compliance, must have records for the two most recent consecutive months and for 8 of the last 12 months.) [40 C.F.R. §§ 280.41(a), 280.45(b).]

Hazardous substance USTs are double-walled. (Cal. Code Regs., tit. 23, § 2631, subd. (a).), [40 C.F.R. § 280.42(b).]

TANK Leak Detection Methods [40 C.F.R. § 280.43.]

Interstitial Monitoring [includes traditional and vapor, pressure, and hydrostatic (VPH) systems]

Sensors are properly located to detect a release. (Cal. Code Regs., tit. 23, §§ 2630, subd. (d), 2632, subd. (c), 2641, subd. (a) OR Health & Saf. Code, § 25290.1 subd. (e)), [40 C.F.R. §§ 280.43(g)(1), 280.43(g)(2), 280.40(a)(2).] AND

Sensors are operational. (Cal. Code Regs., tit. 23, § 2638 OR Health & Saf. Code, § 25290.1 subd. (e).)

Statistical Inventory Reconciliation (SIR) [40 C.F.R. §§ 280.43(h)(1)-(2), 280.41(a).]

SIR is performed properly. (Cal. Code Regs., tit. 23, §§ 2646.1, 2643, subd. (b)(3), 2643.1.) AND

Biennial 0.1 gph tank integrity test performed properly. (Cal. Code Regs., tit. 23, § 2646.1, subd. (g).) AND

Non-passing results are reported and properly investigated. (Cal. Code Regs., tit. 23, §§ 2646.1, subd. (d), 2646.1, subd. (f), 2646.1, subd. (h).)

Automatic Tank Gauging [40 C.F.R. §§ 280.40(a)(1)-(2), 280.43(d)(1).]

0.2 gph monthly tank gauging test performed. (Cal. Code Regs., tit. 23, § 2643, subd. (b)(1).) OR

0.1 gph monthly tank gauging test AND manual inventory reconciliation properly performed. (Cal. Code Regs., tit. 23, § 2643, subd. (b)(2).)

Manual Tank Gauging (for USTs with 1,000-gallon capacity or less) [40 C.F.R. §§ 280.43(b)(1), 280.43(b)(3)-(5).]

Weekly manual tank gauging performed properly. (Cal. Code Regs., tit. 23, § 2645.) AND

If necessary, tank integrity test conducted. (Cal. Code Regs., tit. 23, § 2645, subd. (d)(3).)

Vadoze Zone (Vapor) Monitoring [40 C.F.R. §§ 280.43(e)(3), 280.43(e)(6).]

Vadoze zone monitoring system properly installed and monitored. (Cal. Code Regs., tit. 23, §§ 2647, 2649.)

Ground Water Monitoring [40 C.F.R. §§ 280.43(f)(2), 280.43(f)(7).]

Ground water monitoring system properly installed and monitored. (Cal. Code Regs., tit. 23, §§ 2648, 2649.)

Part I - Release Detection Matrix (continued)

PIPING Leak Detection Methods [280.44]

Double-Walled Pressurized Piping (includes traditional and VPH systems)

[40 C.F.R §§ 280.40(a)(2), 280.43(g)(1), 280.43(g)(2), 280.44(a).]

ALL three of the following:

Interstitial monitoring properly conducted. (Cal. Code Regs., tit. 23, § 2636, subd. (f)(1) OR Health & Saf. Code, § 25290.1 subd. (e).) AND

Line leak detector present and operational. (Cal. Code Regs., tit. 23, § 2643, subd. (c)(1).) AND

Line leak detector tested annually. (Cal. Code Regs., tit. 23, § 2641, subd. (j).)

And ONE of the following:

Line leak detector restricts or shuts off flow of product (for non emergency generator systems). (Cal. Code Regs., tit. 23, § 2636, subd. (f)(2).) OR

Line leak detector activates an audible or visual alarm and the monitoring system is checked daily (emergency generator systems only). (Cal. Code Regs., tit. 23, § 2636, subd. (f)(2).)

*Note: Federal regulations do not require lines that are interstitially monitored to also be tightness tested.

Double-Walled Suction Piping (includes traditional and VPH systems)

Interstitial Monitoring is conducted properly. (Cal. Code Regs., tit. 23, § 2636, subd. (f)(1) OR Health & Saf. Code, § 25290.1 subd. (e).) [40 C.F.R. §§ 280.40(a)(2), 280.43(g)(1), 280.43(g)(2).]

Single-Walled Pressurized Piping

BOTH of the following: [40 C.F.R. § 280.44(a).]

3.0 gph line leak detector present and operational. (Cal. Code Regs., tit. 23, § 2643, subd. (c)(1).) AND

Line leak detector tested annually. (Cal. Code Regs., tit. 23, §§ 2638, 2641, subd. (j).)

AND one of the following:

0.1 gph line integrity test performed annually. (Cal. Code Regs., tit. 23, § 2643, subd. (c)(3).) [40 C.F.R. §§ 280.40(a)(3), 280.41(b)(1)(ii).] OR

0.2 gph line integrity test performed monthly. (Cal. Code Regs., tit. 23, § 2643, subd. (c)(2).) [40 C.F.R. §§ 280.41(b)(1)(ii), 280.44(c).]

Single-Walled Suction Piping

0.1 gph line integrity test performed triennially (every 3 years). (Cal. Code Regs., tit. 23, § 2643, subd. (d).) [40 C.F.R. §§ 280.40(a)(3), 280.41(b)(2).]

Single-Walled Safe Suction Piping

Piping meets the safe suction requirements. (Cal. Code Regs., tit. 23, § 2636, subd. (a)(3)(A) – (D).) [40 C.F.R. §§ 280.41(b)(2)(i) – (v).]

Part II - Release Prevention Matrix

1. Spill container present and in good condition. (Cal. Code Regs., tit. 23, §§ 2635 subd. (b)(1), 2665.) [40 C.F.R. §§ 280.20(c)(1), 280.20(c)(1)(i), 280.21(d).]
2. The appropriate overfill prevention system is present and operational. (Cal. Code Regs., tit. 23, § 2635, subd. (b)(2), 2665.) [40 C.F.R. §§ 280.20(c)(1), 280.20(c)(1)(ii)(A), 280.20(c)(1)(ii)(B), 280.21(d).]
[Note: Overfill prevention system requirement may be waived for USTs that meet the requirements of California Code of Regulations, Title 23, section 2635(b)(3).]
3. Repaired tanks or piping are tightness tested within 30 days of the repair. (Cal. Code Regs., tit. 23, § 2661, subd. (f).) [40 C.F.R. § 280.33(d).]
4. If corrosion of steel tank or piping is discovered during an upgrade or repair, the tank and piping comply with the cathodic protection (CP) applicable design, certification, installation, inspection, and testing requirements. (Cal. Code Regs., tit. 23, § 2660, subd. (n).) [40 C.F.R. § 280.33(d).]
5. The cathodic protection system is performing adequately and provides continuous protection. (Cal. Code Regs., tit. 23, § 2635(a)(2).) [40 C.F.R. §§ 280.31(a), 280.31(b)(1).] (Note: CP is required whether tanks are in operation or in temporary closure. (Cal. Code Regs., tit. 23, § 2671, subd. (b).) [40 C.F.R. § 280.70(a).])

AND

The cathodic protection system is checked by a cathodic protection tester within 6 months of installation and at least every three years thereafter. (Cal. Code Regs., tit. 23, § 2635, subd. (a)(2)(A).) [40 C.F.R. § 280.31(b)(1).]

6. The impressed current cathodic protection system is checked every 60 days. (Cal. Code Regs., tit. 23, § 2635, subd. (a)(2)(A).) [40 C.F.R. § 280.31(c).]
7. Interior lined tanks are inspected within 10 years of lining installation and every 5 years thereafter; and the lining is compliant. (Cal. Code Regs., tit. 23, § 2663, subd. (h).) [40 C.F.R. § 280.21(b)(1)(ii).]
8. Buried metal tanks and piping (including fittings, connections, etc.) are corrosion protected. (40 C.F.R. §§ 280.20(a)-(b) [for USTs installed after 12/22/88], 280.21(a)-(c) [for USTs installed on or before 12/22/88].)
California Code of Regulations, Title 23, sections 2635(a)(2) and 2633(b) for new tanks
California Code of Regulations, Title 23, sections 2636(b) and 2663(b) for new piping
California Code of Regulations, Title 23, section 2662(c) for existing tanks
California Code of Regulations, Title 23, section 2666(b) for existing piping

Enclosure 2

>>> Liz Haven 10/02/03 04:20PM >>>

To Local Agencies: As you may know from discussions with inspector groups throughout the State earlier this year and with the CUPA Forum Board, USEPA has been working to revise the definition of Significant Operational Compliance (SOC). Per the attached email, we now have received direction from USEPA on reporting SOC, which will be on a voluntary basis for the Federal fiscal year October 1, 2003 – September 30, 2004.

As you may know from discussions with inspector groups throughout the State earlier this year and with the CUPA Forum Board, USEPA has been working to revise the definition of Significant Operational Compliance (SOC). Per the attached email, we now have received direction from USEPA on reporting SOC, which will be on a voluntary basis for the Federal fiscal year October 1, 2003 – September 30, 2004.

Previously, USEPA required reporting of the number of facilities inspected during the quarter that are in SOC with: (1) Leak Detection and (2) 1998 Upgrade Requirements. Please note that USEPA has now changed the names of these items to: (1) Release Detection and (2) Release Prevention. Furthermore, USEPA has provided guidance on assessment of SOC through their Release Detection and Release Prevention matrices. Please also note that USEPA has added a reporting requirement for the number of facilities inspected during the quarter that are in SOC with (3) both Release Detection and Release Prevention. USEPA has made it clear that the facility must be in compliance with all relevant SOC items to be counted as "in SOC."

Because of differences in the CA program from the Federal program, it was necessary to create a CA version. We did not receive any comments on the draft CA version that was sent out on July 25, 2003. Therefore we have finalized the CA SOC measures (attached) and are asking local agencies on behalf of USEPA to begin using the new CA SOC reporting measures on a voluntary basis. We are planning to make the necessary modifications to Report 6 as part of the CalEPA Technical Group on Instructions and Forms rulemaking in Title 27. USEPA will require the use of the measures beginning on October 1, 2004, and the Title 27 rulemaking should be completed by that time. Until the reporting becomes mandatory, please report SOC data ONLY if you use the new CA SOC reporting measures. USEPA will no longer accept data based on the old reporting guidelines. Thank you in advance for your cooperation.